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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,241	03/21/2001	Shoichi Miyamoto	FUJx 18.462	2021
26304	7590	06/22/2004	EXAMINER	
KATTEN MUCHIN ZAVIS ROSENMAN			PHU, SANH D	
575 MADISON AVENUE			ART UNIT	
NEW YORK, NY 10022-2585			PAPER NUMBER	

2682 11  
DATE MAILED: 06/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/814,241

Applicant(s)

MIYAMOTO ET AL.

Examiner

Sanh D Phu

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 1-27 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29 and 30 is/are allowed.
- 6) ☒ Claim(s) 28 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This Office Action is responsive to the Election filed on 6/3/04.

Accordingly, claims 28–31 have been selected, and claims 1–27 are withdrawn from further consideration.

#### *Claim Rejections – 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is

determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claim 28 is rejected under 35 U.S.C. 102(e) as being anticipated by Hamabe (6,405,021).

As per claim 28, see figures 7, 11, 12 A and 12 B, and col. 13, line 55 to col. 16, line 48, Hamabe discloses a system (see figure 7) comprising:

first and second radio base stations (10a, 10b);

radio base station control equipment (20) for setting communication channels of said first and second radio base stations (see col. 11, lines 61–65, col. 12, lines 5–12 and col. 15, lines 13–15); and

channel control means (see figure 12a, 12b) for gradually updating transmitting power of a downstream communication channel of a mobile station that is to be set to said second radio base station (10b), said transmitting power updated from an initial value ( $P_0$ ) to a greater value during a hand-off process ) (see S6, S8–S14) where said mobile station communicates with said first radio base station (10b) or said second radio base station until

transmitting power control is executed (see S15, S16), in accordance with a signal received from the mobile station (see S3).

4. Claim 31 is rejected under 35 U.S.C. 102(e) as being anticipated by Sendonaris et al (6,085,106).

As per claim 31, Sendonaris et al discloses a system comprising:

a mobile station (mobile radiotelephone) (see col. 1, lines 24–27);

radio base stations (see col. 1, lines 24–27) for executing transmitting power control of a downstream communication information to be transmitted to said mobile station in accordance with a signal (reverse link signal) received from said mobile station (see col. 6, lines 63–65) and receiving a state notice (reverse link multi-path profiles) representing the state of a signal received by a receiver and its searcher (see col. 6, lines 66–67) from said mobile station; and

channel control means (inherently included) for obtaining a propagation loss of a transmission channel of each radio base station according to said state notice at a the time of hand-off and setting an initial value of transmitting power (P1 or P2) at which said radio base station executes transmission to said

mobile station with taking said propagation loss into account (see figures 2–4, col. 7, lines 9–64, and col. 8, line2 22–61).

*Allowable Subject Matter*

5. Claims 29 and 30 are allowed.

Regarding to claim 29, none of the prior of record teaches or suggest notifying means for notifying start of transmission of a downstream communication information to said mobile station through said first radio base station when said second radio base station is selected as a radio base station forming a new visit-zone of said mobile station and the transmission of the downstream communication information starts;

receiving means for receiving a response transmitted from said mobile station in response to said notice; and

channel controlling means for judging whether or not to increase transmitting power of said downstream communication information according to said response received by said receiving means and updating said transmitting power to a high value within a predetermined level when the judgment result is true.

Regarding to claim 30, none of the prior of record teaches or suggests obtaining a difference of propagation loss between a signal received by a radio base station forming a former visit-zone and a signal received by a radio base station forming a new visit-zone according to said state notice at the time of hand-off;

Setting an initial value of transmitting power of a downstream communication information to be transmitted by said radio base station forming said new visit-zone according to said difference and a value of transmitting power of said downstream communication information transmitted by said radio base station forming said former visit-zone; and

Gradually updating said transmitting power to a great value.

### *Conclusion*


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sanh D Phu whose telephone number is (703)305-8635. The examiner can normally be reached on 8:00-16:30.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sanh D. Phu  
Examiner  
Art Unit 2682

SP

  
LEE NGUYEN  
PRIMARY EXAMINER